IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

Bail Appl..No. 4927 of 2007()

CRIME NO.319/07 OF MALA POLICE STATION

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PETITIONER/ACCUSED

FIROSKUMAR.M.T., AGED 37 YEARS,
S/O.THANKAPPAN, MANAMKOTTU HOUSE,
KURUVILASSERY P.O., MALA, THRISSUR DT.

BY ADV. SRI.V.A.PRADEEP KUMAR

RESPONDENTS:

STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 4927 OF 2007

Dated this the 16th day of August, 2007

ORDER

Application for anticipatory bail. The matter was heard on the last date of posting. Detailed arguments were advanced by the learned counsel for the petitioner. I wanted the Case Diary to be produced before this Court for my perusal. The learned Public Prosecutor placed the Case Diary for my perusal. I have perused the Case Diary and considered the submissions made.

2. The crux of the allegations against the petitioner is that he was running an illegal unit to clandestinely fill L.P.G. from domestic consumers' cylinders to cylinders for commercial use. On receipt of discreet information, the police had conducted surprise inspection of the premises of the petitioner. The petitioner was not available. The inspection indicated that illicit and clandestine activity was going on in

the premises of the petitioner. Accordingly, a crime has been registered, inter alia, under the provisions of the L.P.G. (Regulation of Supply and Distribution) Order, 2000.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner was not indulging in any criminal activities. The petitioner has the requisite appointment order from other Gas Agencies. The petitioner does not deserve to endure the trauma of arrest and detention. It is prayed that anticipatory bail may be granted to the petitioner.

4. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are clinching and telltale circumstances which suggest the contumacious and culpable activity on the part of the petitioner. It is evident from the totality of circumstances that he was taking out the L.P.G. from domestic gas cylinders and filling them in cylinders for commercial purposes. Even though the petitioner was not present actually when the inspection was conducted, the circumstances compellingly point to his guilt, it is submitted.

5. I have considered all the relevant inputs. I have perused the Case Diary. I shall scrupulously avoid any detailed discussions on merits about the acceptability of the allegations

and the credibility of the data collected. Suffice it to say that the totality of the circumstances do lead me to the safe conclusion that there are no features in this case which would justify the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. This, I am satisfied, is an eminently fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

6. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge